

### **REMARKS**

This paper responds to the Office Action mailed on January 11, 2007.

Claim 15 is amended, no claims are canceled, and no claims are added; as a result, claims 1-46 are now pending in this application.

#### **§102 Rejection of the Claims**

Claims 15-17 were rejected under 35 U.S.C. § 102(b) as anticipated by WO 95/06285 to Petersen (hereinafter, “the Peterson reference”). Reconsideration of the present application is therefore requested in light of the present amendment and following remarks.

Although the disclosed embodiments of the invention may be discussed in comparison to the prior art, it is understood that any discussion of the disclosed embodiments, as well as any discussion of the differences between the disclosed embodiments of the present invention and the prior art do not define the scope or interpretation of any of the claims. Instead, such discussed differences, if presented, are offered merely to help the Examiner appreciate important claim distinctions. It is also understood that all prior arguments are incorporated herein, in order to preserve all issues for appeal.

The Examiner has cited the Peterson reference as disclosing all elements of claim 15. Applicants understand the Peterson reference to disclose a data aligner having a write data aligner and a read data aligner. The write data aligner permits writing a fixed length word to a buffer from bytes of data received from a host data bus, as shown in Figure 1 of Peterson. With reference also to Table 1, the write data aligner is operable to stack the data units received from the host so that no gaps occur. Similarly, the read data aligner is shown in Figure 2. The read data aligner is configured to align data received from a buffer so that data units appear on data segment lanes of a host data bus in a manner specified by the host. In general, the data received from a buffer is arbitrarily aligned.

The Peterson reference does not disclose, however, generating a header that is included with the data units. In contrast, the various embodiments of the present application disclose forming a header portion that may be sent along with the data in order to identify the data (page 16, 1<sup>st</sup> paragraph). With brief reference to Figure 5 of the present application, the first data being

transferred includes a header 550, which is positioned in a lane 0. Additional headers may be positioned at other locations during the transaction. For example, and referring still to Figure 5, a header is also positioned in lane 1 following the first data transfer. Although the foregoing headers consume not more than a single lane, the header may also consume more than one lane, if desired.

Turning now to the claims, claim 15, as amended, recites in pertinent part: “An apparatus for assembling and sending data comprising...means for receiving local data from one or more memory storage units...means for receiving downstream data over a communications bus from one or more downstream data sources...and...means for making a determination of how the local data and the downstream data will be sent over the communications bus, wherein making the determination includes...allocating one or more first contiguous lanes within a first section of a data block to at least some of the local data, wherein the data block comprises a set of multiple lanes, and each lane includes a set of configurable bits...allocating one or more second contiguous lanes within a second section of the data block to at least some of the downstream data, wherein the first section and the second section are contiguous, *and positioning a header portion between the first section and the second section.*”. (Emphasis added). Peterson fails to disclose positioning a header portion in any portion of the data. Claim 15 is therefore now allowable over the Peterson reference. Claims depending from claim 15 are also allowable based upon the allowable form of the base claim and further in view of the additional limitations recited in the dependent claims.

### §103 Rejection of the Claims

Claims 18-29, 31-34, 36-40 and 42-45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Petersen reference in view of U.S. Publication No. 2002/0107929 to Soussin *et al.* (hereinafter, “the Soussin reference”). Claims 1-8 and 12-14 were further rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,809,253 to Gallagher *et al.* (hereinafter, “the Gallagher reference”) in view of the Petersen and Soussin references. Claims 9 and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Gallagher reference in view of the Petersen and Soussin references as applied to claim 7 above, and further in view of U.S. Publication No. 2002/0167829 to Friedman *et al.* (hereinafter, “the Friedman reference”). Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable

over the Gallagher, Petersen and Soussin references as applied to claim 7 above, and further in view of U.S. Publication No. 2001/0016877 to Dancs et al. (hereinafter, "the Dancs reference"). Claims 30, 35, 41 and 46 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over the Petersen reference in view of U.S. Publication No. 2001/0035845 to Zwern (hereinafter, "the Zwern reference") and Soussin.

In the present Office Action, the Examiner acknowledges that the Petersen, Gallagher, Friedman, Dancs and Zwern references fail to disclose, or to fairly suggest, *inter-alia*, positioning a header within a data block. Accordingly, the Examiner has cited the Soussin reference in combination with the foregoing references to reject claims in the present application.

Applicants disagree with the foregoing rejections under 35 U.S.C. § 103(a), and respectfully submit that the Examiner misunderstands the Soussin reference. Accordingly, Applicants further submit that the Soussin reference is simply not pertinent to the patentability of claims in the present application.

In general, Soussin discloses a method of transmitting a message from a first computer to at least one second computer by introducing transmission information into a message header. The message therefore includes a *single* header that is positioned *before* a body of the message. (See, for example, Figure 2 of Soussin) The transmission information includes at least one executable management instruction for the at least one second computer *for managing a filing space* in the second computer. The destination computer is thus suitably configured to interpret and execute the management instruction automatically.

Applicants therefore understand Soussin to disclose a single header positioned before the body of a message that includes an executable instruction that cooperatively permits at least one other receiving computer to manage a filing space in the second computer. Soussin does not disclose, or suggest in any motivated fashion, positioning at least one header *within* a data block that is positioned between a first section and a second section in the data block. Applicants therefore request that the rejections under 35 U.S.C. § 103(a) be removed.

#### Reservation of Rights

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute

any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

*Statement Regarding Related Application*

Applicant informs the USPTO that a co-pending application (Serial No. 11/ 496,199) has published as 2006/0271347.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 349-9587 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

JAMES W. MEYER ET AL.

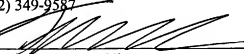
By their Representatives,

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12 March '07

By

  
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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 12 day of March 2007.

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